IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2005

CORAM

THE HONOURABLE MR.MARKANDEY KATJU, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE D.MURUGESAN

W.A.No.1845 of 2004

The President
No.62, Ammanambakkam Panchayat
Thirukazhukundram Union
Kancheepuram District .. Appellant/ Ist Respondent in WP 15015/03)

-Vs-

1. D.Vedachalam

2. The District Collector
   Kancheepuram District
   Kancheepuram

3. The Branch Manager
   State Bank of India
   Thirukazhukundram Branch
   Kancheepuram District .. Respondents/ Petitioner and 2 and 3 Respondents in WP 15015/03

Writ Appeal filed under Clause 15 of the Letters Patent, against the order of the learned single Judge dated 5.3.2004 made in W.P.No.15015 of 2003.

For Appellant :: Mr.V.Subbarayan

For Respondents :: Mr.V.Raghupathy
Government Pleader - R2

JUDGMENT

D.MURUGESAN, J.

The first respondent (writ petitioner) is the Vice President of Ammanambakkam Panchayat, Kancheepuram District. In terms of Section 188(3) of the Tamil Nadu Panchayats Act, 1994, he is entitled to sign the cheque along with the President of the Panchayat. By a resolution dated 10.4.2003, the Panchayat resolved to permit a ward member to sign the cheque on behalf of the Vice President along with the President. The said resolution was passed on the ground that the first respondent refused to sign the cheques presented by the appellant. On the allegation

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that the first respondent refused to sign the cheques only because the amount was exorbitant and that the withdrawal was a scandal and he cannot be deprived of his right to sign the cheque, he filed the writ petition for a mandamus forbearing the Branch Manager, State Bank of India, Tirukazhukundram Branch from disbursing any amount standing in the name of the Ammanambakkam Panchayat in A/c Nos.VP-10,11,40,41 & 44 without the signature of the President and the Vice President. The writ petition was allowed and the direction was issued as prayed for, on the ground that in the event the Vice President refuses to sign, the only course open to the Inspector of Panchayats is either to take action under Section 206 or in the alternative to exercise the emergency powers vested in him under Section 203 of the Act and that the right to sign the cheque cannot be deprived. Challenging the said order, the President of the Ammanambakkam Panchayat has filed the present writ appeal.

2. The scope of Section 188(3) of the Act came up for consideration before a Division Bench in W.A.No.1799 of 2004. By an order dated 28.1.2005, the Division Bench has held that in the event the Vice President refuses to sign, resorting to action under Section 206 of the Act may require the compliance of procedures mentioned in sub-section (2) to (13) of Section 205, which are very elaborate and cumbersome. If such procedure alone is followed, for signing each and every cheque, it would be impracticable to resort to the said procedure. The Division Bench has also held that in terms of Section 188(3), though a member is authorized to sign the cheque in the place of the Vice President, the Inspector of Panchayats (District Collector), who is competent to grant prior approval should apply his mind and decide by a written order giving reason as to whether the Vice President (or the President as the case may be) is refusing to sign the cheque for ulterior motive or for genuine reasons in the interest of the village panchayat. The Division Bench has therefore held that before the Inspector of Panchayats decides the question, he should give an opportunity to the Vice President (or President as the case may be).

3. In our considered view, the writ petition itself is premature. The resolution of the Panchayat is yet to be considered by the Inspector of Panchayats (District Collector), Kancheepuram for his prior approval. Even before such consideration is made, the first respondent has approached this Court seeking for a direction forbearing the Branch Manager, State Bank of India, Tirukazhukundram Branch from disbursing any amount standing in the name of the Ammanambakkam Panchayat in A/c Nos.VP-10, 11, 40, 41 & 44 without the signature of the President and the Vice President. As the District Collector is yet to decide, we are of the considered view that the writ petition itself is liable to be dismissed, as the relief sought for cannot be granted at this stage. Accordingly, the writ appeal is allowed and the impugned judgment is set aside. In view of the order of the Division Bench dated 28.1.2005 made in W.A.No.1799 of 2004, the District Collector of Kancheepuram is directed to consider the resolution of the Panchayat and pass appropriate orders after giving an opportunity of hearing (which need not be a personal hearing) to the Vice President and President of the Panchayat, and others concerned, and after recording his reasons as to whether in

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his opinion, the Vice President (or President, as the case may be) is refusing to sign the cheque for ulterior motive, or for genuine reasons in the interest of the village panchayat. It will be the duty of the Inspector of Panchayats, to decide this matter objectively and impartially without being influenced by any extraneous pressures or considerations. If the refusal to sign the cheque is for good and genuine reasons in the interest of the Village Panchayat, the Inspector should refuse approval, but if it is for extraneous considerations or is mala fide he should grant it. This should be done very expeditiously by the District Collector, Kancheepuram.

4. The writ appeal is allowed. No costs. Consequently, W.A.M.P.No.3450 of 2004 is closed.

ss

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The District Collector
   Kancheepuram District
   Kancheepuram

2. The Bank Manager,
   State Bank of India,
   Thirukazhukundram Brench,
   Kancheepuram District.

3. The President
   No.192, Ammanambakkam Panchayat
   Thirukazhukundram Union,
   Kancheepuram District.

+ 1 cc to Mr.V.Subbarayan, Advocate (SR No. 3962)

+ 1 cc to The Government Pleader, (SR No.4056)

Judgment in

W.A.No.1845 of 2004

JP(CO)
SR/8.2.2005

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